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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor:	SALAS et al.	Examiner:	Cristina O. Sherr
Application No.:	09/916,528	Art Unit:	3621
Filed:	July 27, 2001	Docket No.:	EMCCP076
Title:	METHOD AND APPARATUS FOR CONTROLLING ACCESS TO A PRODUCT		

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in a prepaid envelope addressed to: Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

January 5, 2007.

Elaine Nguyen

AMENDED BRIEF
PURSUANT TO 37 C.F.R. §41.37(d)

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Notification of Non-Compliant Appeal Brief mailed December 28, 2006. The following new brief with the required corrections is respectfully submitted.

I.REAL PARTY IN INTEREST

The real party of interest in the present application is EMC Corporation.

II. RELATED APPEALS AND INTERFERENCES

PURSUANT TO 37 C.F.R. §41.37(c)(1)(ii), Appellant hereby notifies the Board of Patent Appeals that Appellant, the Appellant's Legal Representative, and the Assignee do not know of any appeals or interferences that will directly affect or be directly affected by or have any bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-4, 6-7, 9-11, and 13-14 are currently pending in the application, and are attached hereto as an appendix. All pending claims are the subject this appeal.

IV. STATUS OF AMENDMENTS

No amendment has been filed since the Office Action. All previously submitted amendments are believed to have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed subject matter of Claim 1 relates to a method of controlling access to a product. Figure 13 and page 26 line 4 – page 30 line 6 illustrate examples of controlling access to a product. A license string that controls access to the product is received at a computer. Examples of receiving the license string can be found, without limitation, on page 27 lines 16 – 19 and Figure 13. The license string is generated using a cryptographic process by encoding data that includes data information corresponding to at least one of: a date of creation of the product, a date of a request for the product, and a date generation of the license string. Examples of generating the license string can be found, without limitation, on page 26 line 19 – page 27 line 15 and Figure 13. Examples of the date of creation of the product, the date of a request for the

product, and the date generation of the license string can be found, without limitation, on page 26 line 19 – page 27 line 15. The license string is verified including by: decoding the license string to identify the information, and determine that the date information is within a valid range. Access to the product is based on verifying the license string. Examples of verifying the license string and allowing access to the product can be found, without limitation, on page 27 line 20 – page 28 line 15 and Figure 13. The data encoded to generate the license string comprises a license data and a validation data and verifying the license string further includes (i) decoding the license string to obtain the license data and the validation data, (ii) computing a generated validation data based at least in part on at least a portion of the decoded license data, and (iii) comparing the decoded validation data with the generated validation data. Examples of the license data and the validation data can be found, without limitation, on page 28 lines 3 - 15 and Figure 13. Examples of decoding the license string to obtain the license data and the validation data, computing a generated validation data based at least in part on at least a portion of the decoded license data, and comparing the decoded validation data with the generated validation data can be found, without limitation, on page 28 lines 3 - 15 and Figure 13.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1, 4, 6-7, and 10-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Griswold and Ross.

Claims 2-3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Griswold, Ross, and Smartsoft.

Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Griswold, Ross, and He.

Claims 13-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Griswold, Ross, and Edwards Jr.

VII. ARGUMENT

CLAIMS 1-4, 6-7, 9-11 AND 13-14 REJECTED UNDER 35 U.S.C. 103(a)

For the reasons set forth below, Appellant respectfully submits that the Examiner has erred in maintaining the 35 U.S.C 103(a) rejection of Claims 1, 4, 6-7, and 10-11 as being unpatentable over Barber (US Patent 5,390,297) in view of Griswold (US Patent 5,940,504) and Ross (US Patent 5,553,143), because the Final Office Action does not set forth a prima facie case of obviousness.

In order to establish prima facie obviousness, all of the claim limitations must be taught or suggested by the prior art. See M.P.E.P. 2143.03. The combination of Barber, Griswold, and Ross fails to establish prima facie obviousness of claim 1, because the references do not disclose a "license string being generated using a cryptographic process by encoding data that includes date information corresponding to at least one of: a date of creation of the product; a date of a request for the product; and a date of generation of the license string;" and "verifying the license string including by: decoding the license string to identify the information; and determining that the date information is within a valid range," as recited in claim 1.

Barber teaches allowing licenses for a computer program to be available for use at each of a plurality of nodes of a network. The license of Barber includes an encoding of a "UID" but does not include encoded date information. Col 10, lines 3-6 of Barber recites "The license manager 25A then decrypts the UID contained in the license file 22 for the license 27 and compares it to the UID for such license 27 that was received for the operating system 15." An expiration date of Barber's license is stored in a license file separate from the license as shown in Figure 2B of Barber. The license file is not generated using a cryptographic process. Hence, Barber does not teach a license string being generated using a cryptographic process by encoding data that includes date information. In addition, Page 5 of the office action acknowledges that Barber does not explicitly disclose encoding date information in the license of Barber.

In reference to Barber, Page 3 of the office action asserts, "Obviously, in determining by date whether the license is valid, the date of creation of the license, length of license validity and expiration date of license are determined and thus a range of dates is determined." However, it is undisputed that Barber teaches encoding a "UID" using a cryptographic process and using a

separate license file that is not described as being encoded using a cryptographic process to store an expiration date of the license, and does not teach or suggest encoding date information "in a license string being generated using a cryptographic process" as recited in claim 1.

Griswold describes a license management system that records the use of a licensed product and controls its use in accordance with the terms of the license. The license of Griswold includes a license datagram including an encoded product model number, but the license datagram does not include date information. A termination date associated with the license is stored in a license database separate from the license datagram. Page 4 of the Final Office Action recites, "Griswold provides motivation by indication that the types of information within the license database may require other types than specifically shown." Griswold suggests motivation for storing other types of information in a record of the license database, but the license database record is not "a license string being generated using a cryptographic process" as recited in claim 1. The license datagram of Griswold includes a product model number associated with a product model number stored in a license database record, but the license datagram does not include all information stored in the associated license database record. For example, even though a license termination date is stored in the associated license database record, the license termination date is not included in the license datagram (Griswold, Figure 2). Hence inclusion of data in the license database record does not suggest inclusion in the license datagram. Therefore, Griswold does not teach or suggest a license string being generated using a cryptographic process by encoding data that includes date information.

Ross teaches electronic management and enforcement of software licenses that can be used in a network or non-network environment to facilitate product licensing and upgrades. Ross does not teach or suggest a license string being generated using a cryptographic process by encoding data that includes date information.

Therefore, the applicants respectfully submit that Barber, Griswold, and Ross do not teach, either singularly or in combination, every limitation of claim 1. The Final Office Action has not set forth a prima facie case of obviousness.

Claims 2-4, 6-7, 9-11, and 13-14 depend from claim 1 and are believed to allowable for the same reasons described above.

VIII. CLAIMS APPENDIX

1. A method for controlling access to a product, the method comprising:

(a) receiving at a computer a license string that controls access to the product, the license string being generated using a cryptographic process by encoding data that includes date information corresponding to at least one of:

a date of creation of the product;

a date of a request for the product; and

a date of generation of the license string;

(b) verifying the license string including by:

decoding the license string to identify the information; and

determining that the date information is within a valid range; and

(c) allowing access to the product based on verifying the license string;

wherein the data encoded to generate the license string comprises a license data and a validation data and verifying the license string further includes (i) decoding the license string to obtain the license data and the validation data, (ii) computing a generated validation data based at least in part on at least a portion of the decoded license data, and (iii) comparing the decoded validation data with the generated validation data.

2. The method of claim 1 further comprising providing a dialog box, and wherein receiving the license string comprises receiving the license string via the dialog box.

3. The method of claim 1 further comprising providing an entry field, and wherein receiving the license string comprises receiving the license string via the entry field.

4. The method of claim 1 wherein the cryptographic process generates the license string by encoding information using block ciphers.

6. The method of claim 1 wherein the cryptographic process generates the license string by encoding the information as a character text string.

7. The method of claim 1 wherein the cryptographic process generates the license string by encoding the information as an upper case alphanumeric string excluding capital O, capital I, and numbers 0 and 1.

9. The method of claim 1 wherein the license string includes a first checksum, and verifying the license string comprises generating a second checksum based on the information and comparing the second checksum with the first checksum.

10. The method of claim 1 wherein the license string controls access to a single facility.

11. The method of claim 1 wherein the license string controls access to a plurality of facilities.

13. The method of claim 1 wherein access to the product is allowed for only a predetermined period of time in the absence of verifying the license string.

14. The method of claim 13 wherein allowing access to the product comprises allowing access to the product beyond the predetermined period of time.

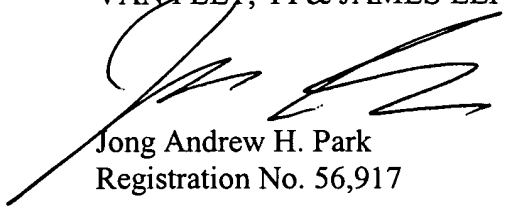
VIII. EVIDENCE APPENDIX

Not Applicable.

IX. RELATED PROCEEDINGS APPENDIX

Not Applicable.

Respectfully submitted,
VAN PELT, YI & JAMES LLP



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